

48A C.J.S. Judges § 208

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VII. Compensation and Fees

C. Payment

§ 208. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(4)

Necessary funds for payment of judicial salaries should be appropriated by the State or municipality liable therefor.

Where the salaries of judges are paid by the State, an appropriation by the legislature of the necessary funds usually is required before the salaries can be drawn,¹ but the statute establishing the office and fixing the salary may in itself constitute an appropriation.² If the constitution makes the appropriation, it takes precedence over appropriations made by the legislature.³ A statute providing for payment out of the general fund of a county constitutes an appropriation from the general fund of the county sufficient to pay the salary in monthly installments.⁴ If such statute is in conflict with a prior statute creating and providing for the duties of the county budget committee, it supersedes the conflicting provisions of the prior act,⁵ and the judge is entitled to have the salary paid notwithstanding a contention that no provision had been made for payment of the salary by the budget commission and that there was no such fund as the general fund of the county.⁶ A

statutory salary of a county judge constitutes a compulsory indebtedness of the county which must be met before an appropriation therefor has been exhausted by payment of other indebtedness.⁷

Where a statute provides that the salary of certain judges shall be paid monthly out of the city treasury, municipal authorities are charged by law with making appropriations for the full amount of the salaries⁸ even though appropriation of such amounts will curtail other funds and hamper some needed activity of the city.⁹ The city comptroller and auditor may audit the salary of a judge of a city court on the basis of the full salary although a lesser amount was appropriated where the reduction in salary was invalid.¹⁰

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Footnotes

- 1 Cal.—*Myers v. English*, 9 Cal. 341, 1858 WL 811 (1858) (disapproved of on other grounds by, *Mandel v. Myers*, 29 Cal. 3d 531, 174 Cal. Rptr. 841, 629 P.2d 935 (1981)).

City charter overridden
A city's charter, purporting to prohibit salary raises until the fiscal budget was approved, was overridden by a statutory law requiring that traffic court judges have contemporaneous salary increases with state court judges.

Ga.—*City of Atlanta v. Shafer*, 248 Ga. App. 518, 546 S.E.2d 565 (2001).
- 2 S.C.—*Gaffney v. Mallory*, 186 S.C. 337, 195 S.E. 840 (1938).
- 3 Okla.—*Edwards v. Carter*, 1934 OK 46, 167 Okla. 287, 29 P.2d 610 (1934).
- 4 Fla.—*Cary v. State ex rel. Howell*, 141 Fla. 866, 194 So. 213 (1940).
- 5 Fla.—*Cary v. State ex rel. Howell*, 141 Fla. 866, 194 So. 213 (1940).
- 6 Fla.—*Cary v. State ex rel. Howell*, 141 Fla. 866, 194 So. 213 (1940).
- 7 Okla.—*Board of Com'rs of Caddo County v. Lawrence*, 1938 OK 173, 182 Okla. 485, 78 P.2d 669 (1938).
- 8 Ill.—*People ex rel. Lyle v. City of Chicago*, 360 Ill. 25, 195 N.E. 451 (1935).
- 9 Ill.—*People ex rel. Lyle v. City of Chicago*, 360 Ill. 25, 195 N.E. 451 (1935).
- 10 N.Y.—*In re Summers*, 149 Misc. 27, 266 N.Y.S. 618 (Sup 1933).